

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
LASALLE COUNTY, ILLINOIS**

AUSTYN POSADA,)
Plaintiff,)
vs.)
OTTAWA TOWNSHIP HIGH SCHOOL)
DISTRICT 140,)
Defendant.)

Case No.:

2022LA000071

SUMMONS

**TO EACH DEFENDANT: Ottawa Township High School District 140 c/o Dr. Michael
Cushing, 211 E Main St, Ottawa, IL 61350**

YOU ARE HEREBY SUMMONED and required to file an answer in this case or otherwise file your appearance, in the Office of the Circuit Clerk, LaSalle County Court House, 119 W. Madison St Rm 201, Ottawa, IL 61350 within 30 days after service of this summons, not counting the day of service.

IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT.

E-filing is now mandatory with limited exemptions. To e-file, you must first create an account with an e-filing service provider. Visit <http://efile.illinoiscourts.gov/service-providers.htm> to learn more and to select a service provider. If you need additional help or have trouble e-filing, visit <http://www.illinoiscourts.gov/faq/gethelp.asp>, or talk with your local circuit clerk's office. If you cannot e-file, you may be able to get an exemption that allows you to file in-person or by mail. Ask your Circuit Clerk for more information or visit www.illinoislegalaid.org.

If you are unable to pay your court fees, you can apply for a fee waiver. For information about defending yourself in a court case (including filing an appearance or fee waiver), or to apply for free legal help, go to www.illinoislegalaid.org. You can also ask your local Circuit Clerk's office for a fee waiver application.

To the Officer: LaSalle County Sheriff, 707 E Etna Rd, Ottawa, IL 61350

This summons must be returned by the officer or other person to whom it was given for service, with indorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so indorsed. This summons may not be served later than three (3) days before the date of appearance. This summons may not be served later than thirty (30) days after its date.

Witness Greg Vaccaro 4/29/2022
SLW
Clerk of Court
(Seal of C

Attorney Alexis Ferracuti; ARDC # 6316857
LAW OFFICES OF PETER F. FERRACUTI, P.C.
Attorney for: Plaintiff
110 East Main St, Ottawa, IL 61350
Phone: 815/434-3535; Fax: 815/434-4513

Date of
Service _____
(To be inserted by the Officer)



FILED

13TH JUDICIAL CIRCUIT
4/28/2022 4:44 PM
SLW

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
LASALLE COUNTY, ILLINOIS**

Greg Vaccaro
CLERK OF THE CIRCUIT COURT
LASALLE COUNTY, ILLINOIS

AUSTYN POSADA,)	
)	
Plaintiff,)	2022LA000071
vs.)	
)	Case No.:
OTTAWA TOWNSHIP HIGH SCHOOL)	
DISTRICT 140,)	
)	
Defendant.)	

COMPLAINT AT LAW

NOW COMES Plaintiff AUSTYN POSADA (hereinafter "PLAINTIFF"), by and through his attorneys THE LAW OFFICES OF PETER F. FERRACUTI, P.C., and for his Complaint against Defendant OTTAWA TOWNSHIP HIGH SCHOOL DISTRICT 140 (hereinafter "DEFENDANT"), states and alleges as follows:

NATURE OF ACTION

1. This is an action against DEFENDANT for disability discrimination and failure to accommodate.

PARTIES

2. PLAINTIFF is, and was at all times relevant, a resident of Ottawa, Illinois.

3. DEFENDANT is a body public, organized and existing under and by virtue of the laws of the State of Illinois, and is governed by the Americans with Disabilities Act, 42 U.S.C.A. 12101 et seq. ("ADA").

4. PLAINTIFF has filed this cause subsequent to the timely filing of Charges of Discrimination against DEFENDANT, with both the Illinois Department of Human Rights and the Equal Employment Opportunity Commission ("EEOC"), based on DEFENDANT's discriminatory conduct towards PLAINTIFF due to his disabilities, with true and correct copies of said Charges attached hereto and incorporated herein as PLAINTIFF'S Group Exhibit A.

5. PLAINTIFF has filed this cause pursuant to Notices of Dismissal issued by the

Illinois Department of Human Rights and the EEOC, informing PLAINTIFF of the option of filing a civil suit in circuit court within the statutory time requirements, with true and correct copies of said Notice(s) attached hereto as PLAINTIFF'S Group Exhibit B.

VENUE

6. Venue is proper within this Judicial Circuit because the action and events alleged herein occurred principally within LaSalle County.

FACTUAL BACKGROUND

7. The date of birth of PLAINTIFF is November 1, 1997. At the time of the discrimination, he was approximately 24 years of age.

8. At all times relevant, PLAINTIFF suffered from (and still suffers from) autism.

9. Prior to September 15, 2021, and at all times relevant hereto, PLAINTIFF has worked as a part-time custodian for DEFENDANT, and has satisfactorily performed his job duties at all times, continually receiving compliments for his hard work and competence.

10. Prior to September 15, 2021, PLAINTIFF was informed that several senior full-time custodians employed by DEFENDANT would be retiring soon, and that those custodial employment positions would soon become available, to be potentially filled internally (from within DEFENDANT's existing pool of employees) by interested candidates.

11. PLAINTIFF continually applied for said open, full-time positions, filling out job applications and being tested and interviewed by DEFENDANT.

12. Prior to September 15, 2021, PLAINTIFF had continually informed DEFENDANT of his autism disability.

13. Prior to September 15, 2021, DEFENDANT had actual and/or constructive notice of PLAINTIFF's aforesaid disability.

14. PLAINTIFF satisfactorily completed all stages of interviewing and testing for the

advancement to a position of employment as a full-time custodian, despite the fact that PLAINTIFF's autism does not, in any way, prevent PLAINTIFF from satisfactorily and competently performing his job duties.

22. DEFENDANT's behavior has created a disparate impact as to PLAINTIFF, as a result of his autism disability, compared to PLAINTIFF's non-disabled peers.

23. As a result of DEFENDANT's unlawful conduct, PLAINTIFF has suffered compensatory damages, lost wages, back pay and front pay, lost future wages, future pecuniary damages, emotional distress and humiliation, and other damages.

24. By reason of DEFENDANT'S discrimination, PLAINTIFF is entitled to all legal and equitable remedies available under Section 12117(a), including but not limited to damages for mental anguish.

WHEREFORE, Plaintiff AUSTYN POSADA respectfully prays that he may have judgment against Defendant OTTAWA TOWNSHIP HIGH SCHOOL DISTRICT 140, in an amount in excess of \$50,000.00, and such other and further relief as this Court shall deem equitable and just, and additionally, costs of this action.

Respectfully Submitted,

BY: /Travis Dunn
Travis J. Dunn, Esq.

Travis J. Dunn, Esq., ARDC#: 6319131
The Law Offices of Peter F. Ferracuti, P.C.
110 E. Main St., Ottawa, IL 61350
P (815) 434-3535; F (815) 434-2796
tdunn@peterferracuti.com

AFFIDAVIT

Under penalties as provided by law pursuant to Illinois Supreme Court Rule 222, the undersigned certifies that at the time of this filing, the amount of damages claimed is in excess of \$50,000.00, to the best of his knowledge and belief.

/Travis Dunn
Travis J. Dunn, Esq.



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Chicago District Office
230 S Dearborn Street,
Chicago, Illinois 60604
(312) 872-9777
Website: www.eeoc.gov

DETERMINATION AND NOTICE OF RIGHTS

(This Notice replaces EEOC FORMS 161 & 161-A)

To: Mr. Austyn Posada
1236 Kansas Street
Ottawa, IL 61350

Charge No: 440-2021-06562

EEOC Representative and email: Jana Diamond
Investigator
jana.diamond@eeoc.gov

DETERMINATION OF CHARGE

The EEOC issues the following determination: The EEOC will not proceed further with its investigation and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

NOTICE OF YOUR RIGHT TO SUE

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file a lawsuit based on this charge, please sign-in to the EEOC Public Portal and upload the court complaint to charge 440-2021-06562.

On Behalf of the Commission:

Digitally Signed By: Julianne Bowman
3/7/2022

Julianne Bowman
District Director

cc: OTTAWA TOWNSHIP HIGH SCHOOL DISTRICT 140

Please retain this notice for your records.

Ex. A

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC 440-2021-06562	
ILLINOIS DEPARTMENT OF HUMAN RIGHTS and EEOC <i>State or local Agency, if any</i>			
Name (Indicate Mr., Ms., Mrs.) MR. AUSTYN POSADA		Home Phone (815) 993-8865	Year of Birth
Street Address 1236 KANSAS STREET, OTTAWA, IL 61350		City, State and ZIP Code	
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name OTTAWA TOWNSHIP HIGH SCHOOL		No. Employees, Members 501+	Phone No. (815) 433-1323
Street Address 211 E MAIN STREET, OTTAWA, IL 61350		City, State and ZIP Code	
Name		No. Employees, Members	Phone No.
Street Address		City, State and ZIP Code	
DISCRIMINATION BASED ON (Check appropriate box(es).) <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input checked="" type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest 02-21-2021 01-06-2022 <input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): I began my employment with Respondent on or about August 19, 2016. My current position title is Custodian/Part-Time. Respondent is aware of my disability. During my employment with Respondent, I applied for numerous Custodian/Full-Time positions and was not selected. I believe I have been discriminated against because of my disability, in violation of the Americans with Disabilities Act of 1990, as amended.			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT	
Digitally signed by Austyn Posada on 01-06-2022 08:38 PM EST		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	

Ex. B
 Exhibit 1, Page 6